IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.1056 OF 2002
IN
INSOLVENCY PETITION NO.68 OF 2001

Rakesh Chaturvedi ....Appellant

V/s.

Manipal Finance Corpn. Ltd. & Anr. ....Respondents

Mr.U.J. Makhija for the Appellant.

Mr.G.R. Mehta for the Respondent.

Mr.A.P. Kothari, Deputy Official Assignee present.

CORAM : DR.S. RADHAKRISHNAN &
S.J. VAZIFDAR, JJ.
DATED : 27TH APRIL, 2006.

P.C. :

1. Heard the learned counsel for the Appellant and the learned counsel for the Respondent.

2. The Appeal is admitted. Mr.Mehta, the learned advocate for the Respondent waives service.

3. By consent the Appeal is taken up for final hearing. By this Appeal the Appellant is challenging the order dated 6.8.2002 whereby the Appellant was adjudicated as an insolvent in Insolvency Petition No.68 of 2001.

4. The above insolvency proceedings which were initiated on the basis of an award which became a decree. Mr.Makhija, the learned advocate for the Appellant handed over a xerox copy of the certified copy of the order dated 16.11.2004 passed by the learned District Judge, Udupi whereby the aforesaid award itself was set-aside, hence even the deemed decree also stands set-aside.

5. Under the aforesaid facts and circumstances of the case the very act of the insolvency based on the aforesaid award/decree itself has been set-aside. Under these circumstances, we make it clear that the "act of the insolvency" itself also stands set-aside. The adjudication order dated 6.8.2002 also stands set-aside.

6. Needless to state that the very Insolvency Petition No.68 of 2001 also stands dismissed. This order of setting aside of "adjudication" and "act of insolvency" shall be published by the Insolvency Registrar in two local newspapers and the Official Gazette. The Appellant shall bear the necessary expenses. It is made clear that it is open for the creditors who may not have taken out insolvency

proceedings are at liberty to take appropriate proceedings against the Appellant.

7. The Appeal stands disposed of accordingly.

(DR.S. RADHAKRISHNAN, J.)

(S.J. VAZIFDAR, J.)